

COUNCIL MEETING NOTICE and AGENDA

MONDAY, DECEMBER 8, 2003

1:00 P.M., OR SOON THEREAFTER

COUNCIL CHAMBERS

Historic County Building

4396 Rice Street, Room 201

Lihu'e, Kaua'i, Hawai'i

This 12/08/2003 Council Meeting Agenda is required to be posted by 12/02/2003. The Council may consider any item reported out by the Committees as shown on the attached 12/03/2003 Agenda.

MEETING CALLED TO ORDER.

ROLL CALL.

APPROVAL OF AGENDA.

MINUTES of the following meetings of the Council:

Regular Meeting of November 13, 2003

COMMUNICATIONS:

- C 2003-359 Communication (11/24/2003) from the Acting Chief of Police, requesting Council approval to appropriate \$300,000 from the Kaua'i Police Department asset forfeiture account for the Computer Aided Dispatching/Records Management System (CAD/RMS), which will be used by the police, fire, and emergency medical system. *(See Proposed Draft Bill No. 2092)*
- C 2003-360 Communication (11/04/2003) from the Mayor, transmitting for Council consideration, the costs associated with the administration of Ordinances Nos. 805 and 806. *(See Proposed Draft Bill No. 2093)*
- C 2003-361 Communication (11/26/2003) from Councilmembers JoAnn A. Yukimura and Jay Furfaro, requesting Council consideration of a bill to establish an open space/public access specialist position (contract) within the Planning Department for one (1) year, to be used for County open space and public access issues. *(See Proposed Draft Bill No. 2094)*
- C 2003-362 Communication (11/12/2003) from the Solid Waste Program Administrator, submitting for Council information, the monthly report from Island Recycling, Inc. for the month of October 2003.
- C 2003-363 Communication (11/13/2003) from the Director of Finance, transmitting for Council information the Cash/Investment Balances for the 1st Quarter of FY 2004.

- C 2003-364 Communication (11/13/2003) from the Director of Finance, transmitting Financial Reports--Month Ending July 31, 2003 (*Copies of Detailed Budget Report (Listing), Statement of Revenues-Estimated and Actual (Listing), Statement of Expenditures and Encumbrances (Listing), and Revenue Report (Listing), and on file in the County Clerk's Office*).
- C 2003-365 Communication (11/13/2003) from the Director of Finance, transmitting Financial Reports--Month Ending August 31, 2003 (*Copies of Detailed Budget Report (Listing), Statement of Revenues-Estimated and Actual (Listing), Statement of Expenditures and Encumbrances (Listing), and Revenue Report (Listing), and on file in the County Clerk's Office*).
- C 2003-366 Communication (11/13/2003) from the Director of Finance, transmitting Financial Reports--Month Ending September 30, 2003 (*Copies of Detailed Budget Report (Listing), Statement of Revenues-Estimated and Actual (Listing), Statement of Expenditures and Encumbrances (Listing), and Revenue Report (Listing), and on file in the County Clerk's Office*).
- C 2003-367 Communication (11/10/2003) from the Executive on Housing, requesting Council approval of the sale or assignment of its real estate mortgage loan secured by the property located at 5140 Laukona Street, Lihu'e, Kaua'i, Hawai'i, in consideration of the loan balance due the County and authorization for the County Clerk to sign documents related to the transaction.
- C 2003-368 Communication (11/12/2003) from the Executive on Housing, requesting Council approval of the revised HOME budget for the Kaua'i County Housing Agency for Fiscal Year 2003-2004.
- C 2003-369 Communication (11/20/2003) from the Executive on Housing, requesting Council authorization of a short term lease of 140 Loloa Place, Kapa'a, Kaua'i, Hawai'i, at a discounted rate, to a low-income Kaua'i household.
- C 2003-370 Communication (11/07/2003) from the Acting Chief of Police, requesting Council approval to expend \$5,300 from the Criminal Asset Forfeiture Fund, to install and construct a gun cage for storage of evidentiary weapons, and to purchase shelving for the gun cage.
- C 2003-371 Communication (11/13/2003) from the Chief of Police, requesting Council approval to apply for, accept, and expend \$2,770 in State Asset Forfeiture Funds, administered by the State Attorney General, to send one (1) investigator to the Internal Affairs Training Conference hosted by the Las Vegas Metropolitan Police Department, from December 1-5, 2003.

- C 2003-372 Communication (11/13/2003) from the Chief of Police, requesting Council approval to apply for, accept, and expend \$35,000 from the State Asset Forfeiture Fund, administered by the State Attorney General, to host this years annual Inter-County Detectives Training Seminar, from December 10-12, 2003 at the Kaua'i Coconut Beach Resort.
- C 2003-373 Communication (11/13/2003) from the Chief of Police, requesting Council approval to expend \$9,500 from the Criminal Asset Forfeiture Fund, to build an outdoor fenced enclosure at the southwest corner of the current police headquarters facility to store evidence vehicles.
- C 2003-374 Communication (11/19/2003) from the Acting Chief of Police, requesting Council approval of a donation from Mr. Shawn Smith, to provide shelter (at the Larry Bowman property in Keapana Valley), food, and medical care for the Department's drug detection dog, while conducting a selection process for a new canine handler in the vice office.
- C 2003-375 Communication (11/25/2003) from the Chief of Police, requesting Council approval to apply for, receive, and expend \$52,000 in a STOP Violence Against Women Grant with the State of Hawai'i Attorney General's Office, which will be used for sexual assault and domestic violence issues as it relates to forensic digital photography and case management between various multidisciplinary agencies. *(Grant application on file in the County Clerk's Office.)*
- C 2003-376 Communication (11/19/2003) from the Director, Office of Economic Development, requesting Council authorization to have the County of Kaua'i defend, indemnify, and hold harmless the State of Hawai'i, the Hawai'i Tourism Authority and their officers, employees and agents from and against all liability, loss, damage, cost, and expense, including all attorney's fees and all claims, suits, and demands therefore, arising out or resulting from the acts or omissions of the County of Kaua'i, and it's employees, officers, agents, or subcontractors under the following contracts:
1. Kauai County Greetings Program – Airport & Harbor – CY 04 \$75,000
 2. Natural Environment Program – Kaua'i's Fern Grotto Rejuvenation Project – FY 2004 - \$245,000
 3. Kaua'i County Greetings Program – Airport & Harbor – CY 03 \$95,000

- C 2003-377 Communication (11/19/2003) from the Director, Office of Economic Development, requesting Council authorization to indemnify, defend, and save harmless the STATE, its officers, agents, and employees from and against any and all manner of activities and claims arising, either directly or indirectly out of or resulting from the negligence, errors, omissions or acts of the County, its officers, agents or employees occurring during or in connection with the performance of the County's services. The County shall defend the STATE against any such action or claim that does not involve an act or omission solely of the STATE, its officers, agents or employees under the following contracts:
1. County Product Enrichment Program – CY 04 - \$400,000, CY 05 - \$400,000, CY 06- \$400,000
 2. County Product Enrichment Program – July 2002 to December 2003 - \$600,000
- C 2003-378 Communication (11/24/03) from the Director, Office of Economic Development, requesting Council approval to receive, and expend Program Year 2002 Incentive Awards for Regional Cooperation and Local Coordination in the amount of \$12,640, that may be used for program administration or allowable activities under the Youth, Adult, and/or Dislocated Worker Programs without regard to cost items, and have a two (2) year life through June 30, 2005.

CLAIMS:

- C 2003-379 Communication (11/17/2003) from the County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance for their insured Debra Melton, for damage to her rented vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
- C 2003-380 Communication (11/19/2003) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Michelle M. Saia, for personal property damage, pursuant to Section 23.06, Charter of the County of Kaua'i.
- C 2003-381 Communication (11/28/2003) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mary E. Brinker, for personal injuries, pursuant to Section 23.06, Charter of the County of Kaua'i.
- C 2003-382 Communication (12/02/2003) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Antonio Ragragola, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

COMMITTEE REPORTS:

RESOLUTIONS:

Resolution No. 2003-44, RESOLUTION CONFIRMING MAYORAL RE-APPOINTMENT TO THE LIQUOR CONTROL COMMISSION (Glenn M. Nakamura, Second Term)

Resolution No. 2003-46, RESOLUTION CONFIRMING MAYORAL RE-APPOINTMENT TO THE POLICE COMMISSION (Michael G. Ching, First Term)

BILLS FOR FIRST READING:

Proposed Draft Bill No. 2092 – AN ORDINANCE AMENDING ORDINANCE NO B-2003-610 AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2003 THROUGH JUNE 30, 2004, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE CRIMINAL ASSETS FORFEITURE FUND (\$300,000 CAD/RMS system)

Proposed Draft Bill No. 2093 - AN ORDINANCE AMENDING ORDINANCE NO B-2003-610 AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2003 THROUGH JUNE 30, 2004, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$127,600 Real Property)

Proposed Draft Bill No. 2094 – AN ORDINANCE AMENDING ORDINANCE NO. B-2003-610 AS AMENDED, RELATING TO THE OPERATING BUDGET AND FINANCING THEREOF OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2003 THROUGH JUNE 30, 2004, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$51,114 Open Space/Public Access Contract Position)

BILLS FOR SECOND READING:

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). *(Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

ES-107 Pursuant to Haw. Rev. Stat. §§92-4 and 92-5(a)(4), the purpose of this executive session is to request council approval to expend additional funds for special counsel to represent the County of Kauai in various ongoing worker's compensation appeals cases. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

- ES-108 Pursuant to Haw. Rev. Stat. §§92-4 and 92-5(a)(4), the purpose of this executive session is to approve the County Attorney's recommendation for an additional appropriation for special counsel in George Freitas v. County of Kauai, et al., Civil No. CV01-00851 SOM LEK (U.S. District Court, District of Hawaii). This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
- ES-109 Pursuant to Haw. Rev. Stat. §§92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel for purposes of requesting Council approval of a proposed settlement of a worker's compensation claim. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
- ES-110 Pursuant to Haw. Rev. Stat. §§92-4, 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel regarding a recommended offer of settlement of a pending case, to permit the Counsel to consult with the County's legal counsel on questions and issues relating to the case, and to deliberate and decide on the proposed settlement offer. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.
- ES-111 Pursuant to Haw. Rev. Stat. §§92-4, 92-5(a)(4), and 92F-13(3), the purpose of this executive session is to discuss matters pertaining to the procurement and contracting of services relating to video production and captioning for County public access television broadcasts, and to permit the Council to consult with the County's legal counsel on questions and issues relating to procurement and contracting of these services. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ADJOURNMENT.

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, ROOM 206, LIHU'E, KAUAI. TELEPHONE NO. 241-6371.

COMMITTEE MEETING NOTICE AND AGENDA
WEDNESDAY, DECEMBER 3, 2003
9:00 A.M.
COUNCIL CHAMBERS
HISTORIC COUNTY BUILDING
4396 RICE STREET, ROOM 201
LIHU'E, KAUA'I, HAWAI'I

FINANCE/INTERGOVERNMENTAL RELATIONS COMMITTEE

Minutes of the November 20, 2003 Finance/Intergovernmental Relations Committee Meeting.

COMMUNITY ASSISTANCE COMMITTEE

Minutes of the November 20, 2003 Community Assistance Committee Meeting.

ENERGY & PUBLIC SAFETY COMMITTEE

Minutes of the November 20, 2003 Energy & Public Safety Committee Meeting.

PARKS & PUBLIC WORKS COMMITTEE

Minutes of the November 20, 2003 Parks & Public Works Committee Meeting.

C 2003-342 Communication (10/08/2003) from the Chief of Operations and Construction, Department of Public Works, transmitting information about the Kalama Bridge located on Pu'u'opae Road in the Wailua Homesteads.
(Referred 11/26/2003)

C 2003-354 Communication (10/30/2003) from the Civil Engineer, Department of Public Works, requesting Council approval to prioritize funding for the following in the Division of Wastewater Management Contractual Repairs budget account:

1. Design for improvements to the Marriott sewage pump station,
2. Design and construction for 'Ele'ele WWTP modification of effluent injection well #4, and development of effluent injection wells #1, #2, and #3, and
3. Corrective measures for chronic Wailua WTP operation and maintenance problems.

(Referred 11/26/2003)

PLANNING COMMITTEE

Minutes of the October 23, 2003 Planning Committee Workshop.
(Deferred 11/20/2003)

Minutes of the November 6, 2003 Planning Committee Meeting.
(Deferred 11/20/2003)

Minutes of the November 20, 2003 Planning Committee Meeting.

Bill No. 2085 A BILL FOR AN ORDINANCE AMENDING STATE LAND USE
DISTRICT BOUNDARY IN KAPA'A HOMESTEADS, KAUA'I
(Jensen of Hawaii, Inc., Applicant)
(Public hearing held on 11/26/2003)

Bill No. 2086 A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I
COUNTY CODE 1987, RELATING TO ZONING DESIGNATION
IN KAPA'A HOMESTEADS, KAUA'I (Jensen of Hawaii,
Inc., Applicant)
(Public hearing held on 11/26/2003)

Bill No. 2078 A BILL FOR AN ORDINANCE TO ADMINISTER THE PUBLIC
ACCESS, OPEN SPACE, NATURAL RESOURCES
PRESERVATION FUND
(Deferred 11/20/2003)

COMMITTEE OF THE WHOLE

Minutes of the November 20, 2003 Committee of the Whole Meeting.

EXECUTIVE SESSION: Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Council may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a). *(Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

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NOTICE AND AGENDA

Pursuant to Haw. Rev. Stat. (“H.R.S.”) §§92-4, 92-5(a)(2), 92-5(a)(8), 92F-13 and 92F-14(b)(4), the Kaua‘i County Council will convene an executive meeting on the following date, time, and place to interview and deliberate on mayoral nominee Michael Ching for re-appointment to the Police Commission and mayoral nominee Glenn Nakamura for re-appointment to the Liquor Control Commission on:

MONDAY, DECEMBER 8, 2003

11:00 a.m., or soon thereafter

Council Chambers

Historic County Building

4396 Rice Street, Room 201

Lihu‘e, Kaua‘i, Hawai‘i

Pursuant to H.R.S. §92-5(a)(8), the purpose of this executive meeting is to allow the Council to deliberate upon information considered confidential under H.R.S. §92F-14(b)(4). No decision to approve or disapprove this nominee shall be made at this executive meeting.

The actual decision to approve or disapprove each nominee shall be made by a Council resolution at a duly noticed Council meeting. At that public meeting, all interested persons shall be afforded the opportunity to submit testimony regarding each or all of the nominees.

(Subject to cancellation)

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE OFFICE OF THE COUNTY CLERK, 4396 RICE STREET, ROOM 206, LIHU‘E, KAUA‘I, HAWAI‘I; TELEPHONE NO. (808) 241-6371.